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In the Supreme Court of the United States

OCTOBER TERM, 1972

No. _____

SUSAN MARAMAN,
Petitioner,

vs.

GRADY HARDISTER, et al.,
Respondents.

RESPONSE TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF FLORIDA

Respondents, GRADY HARDISTER, et al., hereby respond to the Petition for Writ of Certiorari filed herein by the Petitioner, SUSAN MARAMAN.

OPINIONS BELOW

The opinion of the Supreme Court of Florida is included in the Appendix appended hereto at pages A6-A7. The opinion of the Second District Court of Appeal of the State of Florida is included in the Appendix appended hereto at Page A5. The opinions or orders of the Circuit

Court of the Thirteenth Judicial Circuit of the State of Florida, in and for Hillsborough County, are included in the Appendix appended hereto at pages A1-A4.

QUESTION PRESENTED FOR REVIEW

The question presented is:

WHETHER, IN VIEW OF THE FACT OF THE COMMUNITY OF INTEREST OF BOTH PLAINTIFFS AND DEFENDANTS IN THE SAME QUESTIONS OF LAW AND FACT, THE TRIAL COURT'S MANDATORY INJUNCTION AGAINST THE NAMED DEFENDANTS, AND OTHER UNNAMED DEFENDANTS AS A CLASS, WAS VALID AND NOT A DENIAL OF DUE PROCESS OF LAW UNDER THE FOURTEENTH AMENDMENT TO THE CONSTITUTION.

CONSTITUTIONAL PROVISION AND RULE INVOLVED

Constitution of the United States, Amendment XIV, Section 1:

". . . nor shall any state deprive any person of life, liberty or property without due process of law."

Florida Rules of Civil Procedure, 1.220 (1971):

"When the question is one of common or general interest to many persons constituting a class so numerous as to make it impracticable to bring them all before the court, one or more may sue or defend for the whole."

STATEMENT OF THE CASE

Respondent, GRADY HARMISTER, and other named Plaintiffs (hereinafter referred to collectively as Respondents) filed a Complaint for Injunctive Relief against Petitioner, SUSAN MARAMAN, one other named Defendant and other unnamed Defendants seeking removal of certain trailers from the subdivision in which the Respondents resided and owned lots. (A7-A18)[1] The Respondents sued the two named Defendants individually, and as representatives of a class of all those parties "Similarly situated". (A8) Respondents' Complaint indicated that the Plaintiffs were united by a common tie of ownership of land in the subdivision, and a community of interest in the decision of the same questions of law and fact involved in the cause. (A8) Respondents also alleged that Plaintiffs and Defendants "are so numerous, and the potential legal actions involved herein are so numerous, that their prosecution would visit great inconvenience, hardship and exposure upon Plaintiffs if they were to be prosecuted individually". (A8)

Respondents' Complaint sought an injunction for the purpose of enforcing restrictive covenants which provide as follows:

> "No trailer shall be allowed permanently on any tract. However, it is permissible for a trailer to be used while building a dwelling provided that in no instance shall the time exceed 18 months." (A14, A17)

These restrictions were placed on record as relating to the subdivision and additions thereto in 1954 and 1955

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1. "(A)" refers to Appendix appended hereto.

in the Official Records of Hillsborough County, Florida. By being officially recorded, the general public was put on constructive notice of the existence of the restrictions. *First Federal Savings and Loan Association* v. *Fisher*, 60 So.2d 496 (Fla. 1952).

Petitioner filed a Motion to Dismiss the Complaint which was denied; thereafter Petitioner filed her Answer, Defenses, and Counter-Claim seeking to have the restrictive covenants declared null and void. The cause then proceeded to trial before the Court. At the trial, the evidence revealed that the subdivision which was subject to the restrictive covenants included the original subdivision and three separate additions thereto. There was evidence adduced at the trial by Petitioner's own witnesses as to the number of trailers in the subdivision in violation of the officially recorded restrictive covenants. In addition, evidence was adduced at the trial in the form of aerial photographs indicating the number of single-family residences in the subdivision as well as the number of trailers in the subdivision. At the close of the Respondents' case, and at the close of all the evidence, counsel for the Petitioner raised the objection that the Respondents' action was not a proper class action. The Trial Court reserved ruling and requested the parties to submit legal memoranda. Thereafter, following submission of memorandum briefs by the Petitioner and the Respondents, the trial court entered its order holding that it had jurisdiction of the parties, including unnamed, unknown defendants, and, further, holding that the restrictive covenants were valid and enforceable and requiring the Defendants (including Petitioner, the other named Defendants and other unknown and unnamed Defendants) to remove, within 90 days of the date of the order, all trailers not in compliance with the restrictive covenants. (A1-A4)

Following a Motion for Rehearing filed by the Petitioner which was denied, the Petitioner filed her Notice of Appeal to the Second District Court of Appeals. Upon submission of appropriate briefs by the Petitioner and Respondents, the Second District Court of Appeal affirmed the lower court's decision. The Second District Court also denied a Petition for Rehearing filed by the Petitioner. The Petitioner then filed in the Florida Supreme Court her Petition for Writ of Certiorari. The Florida Supreme Court denied the Petitioner's Petition for Writ of Certiorari, as well as a Petition for Rehearing.

REASONS FOR DENYING THE WRIT

The decisions of the Supreme Court of the State of Florida and of the Second District Court of Appeal upholding the trial court's mandatory injunction against all the members of a class of unnamed Defendants do not deprive those members of due process of law and are in accord with applicable decisions of this court.

The Respondents in the instant case have sued the Petitioner and a developer (who is also owner of numerous lots in the subdivision involved) individually, and as representatives of a class of Defendants which includes those parties within a prescribed land area who are legal owners of lots, equitable owners of lots, lessees of lots or lessees of trailers or mobile homes on those lots within the prescribed subdivision. Through testimony and exhibits introduced at the trial, the trial court properly determined that the unnamed Defendants are too numerous to make their joinder in this cause practicable, and that under the particular facts of this cause, the two named Defendants adequately represent the unnamed parties. The trial court has therefore, and correctly so, entered its mandatory injunction enforcing the recorded restrictive covenants against not only the named Defendants but also unnamed and unknown Defendants who own trailers or mobile homes or own, rent, or lease lots on which trailers or mobile homes are located. (A1-A4) The trial court's order has been affirmed by Florida's Appellate Courts.

The Petitioner cites the landmark case of *Hansberry v. Lee*, 311 U.S. 32, 61 S.Ct. 115 (1940), citing that the basic issue to which this Court addressed itself was the issue of adequate representation of non-parties to the ac-

tion. The question presented to this court in *Hansberry* was whether a decree entered in favor of certain plaintiffs as representatives of a class was binding upon alleged members of a class who were not parties to the litigation. The Supreme Court of Illinois had held that the non-party class members were bound by the lower court action. This Court reversed the Illinois Court.

Hansberry involved an action by Anna M. Lee and others against Carl A. Hansberry and others to enjoin the breach of an agreement restricting the use of land within a particular area in the City of Chicago. The agreement involved in that cause stipulated that for a specified period no part of the land should be "sold, leased to or permitted to be occupied by any person of the colored race", and provided that it should not be effective unless signed by the "owners of 95 percentum of the frontage" within the prescribed area. The Bill of Complaint stated that the owners of 95 percent of the frontage had signed, that Hansberrys were owners of land within the restricted area, and with knowledge of the agreement, acquired and were occupying land within the restricted area formerly belonging to an owner who had signed the agreement.

As a defense to the suit, Hansberry argued that the agreement involved had never become effective because owners of 95 percent of the frontage had not signed it, and in answer the Lees pleaded that the issue was res judicata by the decree in an earlier suit. By way of rejoinder, Hansberry argued that they were not parties to that suit or bound by its decree, as their interest, as Negroes, was antagonistic to such an agreement. Hansberry argued they were not members of a "class" so as to be bound by the judgment against all owners of land within the restricted area in the City of Chicago as a "class" of Defendants.

It is obvious from a reading of *Hansberry* v. *Lee*, that it is easily distinguishable on its facts from the case at bar. The reversal by this Court of the Illinois decision in *Hansberry* turned on the fact that the Defendant/Petitioners did not have the community of interest required. This Court held that they were not such parties as to qualify them as members of the "class" which was bound by the trial court's judgment. In fact, the Hansberrys' interest was of such a conflicting nature to the purposes of the stipulated agreement as to effectively eliminate them from members of such a "class".

In referring to the prior case, in which the Plaintiffs in *Hansberry* were attempting to bind the Defendants by the decision in said prior case, this Court stated:

> "The restrictive agreement did not purport to create a joint obligation or liability. If valid and effective, its promises were the several obligations of the signers and those claiming under them. Because of the dual and potentially conflicting interests of those who are putative parties to the agreement in compelling or resisting its performance, it is impossible to say, solely because they are parties to it, that any two of them are of the same class." *Hansberry* v. *Lee*, 311 U.S. 32, 119 (1940)

It was on the above rationale that this Court reversed the decision of the Illinois Supreme Court. The Petitioner in the instant case, in referring to Hansberry stated, on page 8 of her brief, that "because of the divergence of interests between the parties to the litigation and certain of the members of the alleged class, this Court held that due process precluded any binding effect on the rights of the absent parties." This divergence of interests of the parties in *Hansberry* is the distinguishing feature between that

case and the case at bar. In the instant case, instead of a stipulated agreement at issue between the parties in which there was a divergence of interest, there are restrictive covenants of record binding all persons by prohibiting the use of trailers or mobile homes. All of the defendants in the instant case, both named and unnamed, have exactly the same community of interest in the same questions of law and fact regarding the recorded restrictive covenants. There is no question of whether some property owners have signed and others have refused to sign an agreement as in *Hansberry*. Affecting all property owners, lessors and residents of the described subdivision are the restrictive covenants which bind all persons. The only question of fact involved in the case at bar is the presence or non-presence of trailers or mobile homes on any lots within the subdivision and its additions affected by the restrictive covenants. The joinder of one named defendant or one hundred unnamed defendants would not change the simple set of facts involved in the instant case. Therefore, this cause was ideally suited for the utilization of a "class action".

The Plaintiffs in the instant cause have also the same community of interest in ownership of their land, and in the same questions of law and fact so as to constitute a "class" for the purposes of maintaining this action.

As the Petitioner in the instant cause stated in her Petition on page 7, this Court in *Hansberry* v. *Lee*, supra, held that:

> "The class suit was an invention of equity to enable it to proceed to a decree in suits where the number of those interested in the subject of litigation is so great that their joinder as parties in conformity to the usual rules of procedure is impracticable . . . in such

> cases where the interest of those not joined are of the same class as the interest of those who are, and where it is considered that the latter fairly represented the former in the prosecution of the litigation of the issues in which all have a common interest, the court will proceed to a decree."

In the instant cause, through aerial photographs admitted as joint exhibits by the Petitioner and Respondents and by testimony of the Petitioner's own witnesses, the record reflects the fact that those persons having trailers or mobile homes on their property in the area in question as being so numerous as to make their joinder impracticable and a burden on the court. Further, due to the simplicity of the fact situation involved in the instant cause, i.e. whether or not trailers or mobile homes are on lots in the area in violation of the recorded restrictive covenants, the trial court properly determined that both the named Plaintiffs and the named Defendants adequately represent other unnamed persons constituting a "class" of Plaintiffs and Defendants. It is obvious that the trial court, in its ability to hear at first hand the testimony of witnesses in the trial of this matter, to view the exhibits presented by the Plaintiffs and Defendants and to assess the value of all testimony adduced at the trial of this cause, was in the best possible position to determine whether or not this was a valid class action. The trial court by its order requiring the removal of all trailers from the area involved in this cause has determined that this was in fact a valid class action. The affirmance of that decision by the District Court of Appeal and by the Florida Supreme Court has strengthened the judgment of the trial court.

CONCLUSION

The use of class actions is an effective and useful tool in resolving problems involving the same questions of law and fact and involving persons with the same community of interest. To recede from the established position of state and federal courts in allowing this type of action where, as in the instant cause, both the Plaintiffs and the Defendants have the same community of interest in the decision of the same questions of law and fact, would be a step backward in effective judicial process. It is respectfully submitted that, in the case at bar, the use of the class action was the perfect vehicle for the resolution of a problem affecting Plaintiffs as a class as well as the Defendants as a class.

The Respondents earnestly urge this Honorable Court to deny Petitioner's Writ of Certiorari to the Supreme Court of Florida.

Respectfully submitted,

GRIFFIN, GILLIS & STEAD, P.A.
Post Office Box 8312
Tampa, Florida 33604
Attorneys for Respondents

By: .....
JOHN P. GRIFFIN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that three true copies of the foregoing Response to Petition for Writ of Certiorari to the Supreme Court of Florida and Appendix have been furnished by U.S. Mail, postage prepaid this 6th day of December, 1972, to Edward M. Waller, Jr., Esquire, Post Office Box 1438, Tampa, Florida 33601, Attorney for Petitioner and to the Clerk of the Supreme Court, Supreme Court Building, Tallahassee, Florida 32302.

JOHN P. GRIFFIN, ESQUIRE, of
GRIFFIN, GILLIS & STEAD, P.A.
Post Office Box 8312
Tampa, Florida 33604
Attorneys for Respondents

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA, IN AND FOR HILLSBOROUGH COUNTY

No. 182733, DIVISION H

GRADY HARDISTER, DOTEN K. WARNER, LLOYD NEWCITY, JERRY M. BOWMER, ROBERT A. BOWMER, HENRY KRISTOF, FRED G. STEAD, FRED MOSGELLER, G. F. PENNINGTON, OMAR C. MILLER, CARNEY W. ADAMS, NELSON E. CLIFFORD, JAMES C. CANTRELL, LAWRENCE D. SMITH, and PETER HORVANSKY,

Plaintiffs,

vs.

GOLFLAND DEVELOPERS, INC., a Florida corporation, SUSAN MARAMAN, and Other Parties unknown,

Defendants.

ORDER

(Filed September 22, 1970)

THIS CAUSE coming on for trial on the pleadings filed, evidence admitted by counsel for the parties, testimony of witnesses, memorandum briefs submitted by counsel, and the Court being fully advised in the premises, the Court finds as follows:

(a) That the Court has jurisdiction of the parties and the subject matter of this cause.

(b) That the restrictive covenants on Wonderland Acres Subdivision, Hillsborough County, Florida, and the 1st, 2nd and 3rd Additions, thereto, are valid and enforceable.

(c) That the equities of this cause are with the plaintiffs and against the defendants.

IT IS THEREFORE,
ORDERED AND ADJUDGED, that

1. All trailers or mobile homes within Wonderland Acres Subdivision, Hillsborough County, Florida, and its 1st, 2nd and 3rd Addition, not being used on a temporary basis during the construction of a permanent dwelling, in conformity with recorded restrictive covenants regarding trailers and mobile homes, are to be removed by the defendants from the said Wonderland Acres Subdivision and its additions, within ninety (90) days of the entry of this Order.

DONE AND ORDERED in Chambers at Tampa, Hillsborough County, Florida, this 21st day of Sept., 1970.

/s/ Woodie A. Liles
Circuit Judge

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA, IN AND FOR HILLSBOROUGH COUNTY.
CIVIL ACTION

Case No. 182733, Division H

GRADY HARDISTER, ET AL.,
Plaintiff,

vs.

GOLFLAND DEVELOPERS, INC., a Florida corporation, SUSAN MARAMON, and other parties unknown,
Defendants.

ORDER ON MOTIONS

(Filed December 14, 1970)

This cause having come on the 8th day of November, 1970 to be heard upon all pending motions, and due notice having been given, and counsel for Plaintiff having announced that Plaintiff was withdrawing Plaintiff's Motion to Dismiss, and the Court having heard argument of counsel on all other pending motions, it is thereupon, and in consideration thereof,

ORDERED AND ADJUDGED, as follows:

1. That the Order heretofore entered in this cause on September 21, 1970, be, and the same is hereby, amended by deleting paragraph 1, thereof, and substituting the following therefor:

"1. All trailers or mobile homes owned by the Defendants within Wonderland Acres Subdivision, Hillsborough County, Florida, and its first, second, third additions, and all trailers located upon lands

owned, rented or leased by the Defendants located within said subdivision and its additions, not being used on a temporary basis during the construction of a permanent dwelling, in conformity with recorded restrictive covenants regarding trailers and mobile homes, are to be removed by the Defendants from the said Wonderland Acres Subdivision, and its additions, within ninety (90) days of December 11th, 1970."

2. That, through the foregoing amendment, Defendant's Motion to Amend Order is hereby granted.

3. That Motion for Rehearing of Defendant Susan Maramon, be, and the same is hereby, denied.

DONE AND ORDERED, in Chambers in the Hillsborough County Courthouse, in the City of Tampa, Hillsborough County, Florida this 11th day of December, 1970.

/s/ Woodie A. Liles
Circuit Judge

IN THE SUPREME COURT OF FLORIDA

JANUARY TERM, A. D. 1972
TUESDAY, APRIL 25, 1972

CASE NO. 41,884

SUSAN MARAMAN,
Petitioner,

vs.

GRADY HARDISTER, ET AL.,
Respondents.

DISTRICT COURT OF APPEAL,
SECOND DISTRICT

ORDER

(Filed June 6, 1972)

This cause having heretofore been submitted to the Court on Petition for Writ of Certiorari, jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Florida Appellate Rule 4.5 c (6), and it appearing to the Court that it is without jurisdiction, it is ordered that the Petition for Writ of Certiorari be and the same is hereby denied.

ROBERTS, C.J., ERVIN, BOYD, McCAIN and DEKLE, JJ., concur

CC:
Hon. C. L. Dillahunty, Clerk
Hon. James F. Taylor, Clerk
Fowler, White, Gillen, Humkey, Kinney and Boggs
(Hon. Edward M. Waller, Jr.)
Griffin, Gillis & Stead
(Hon. John P. Griffin)

IN THE SUPREME COURT OF FLORIDA
JANUARY TERM, A. D. 1972
FRIDAY, JUNE 2, 1972

Case No. 41,884

SUSAN MARAMON,
Petitioner,

vs.

GRADY HARDISTER, et al.,
Respondents.

ORDER

(Filed June 6, 1972)

On consideration of the Petition for Rehearing filed by attorneys for Petitioner,

IT IS ORDERED by the Court that said Petition be, and the same is hereby, denied.

ROBERTS, C.J., ERVIN, BOYD, McCAIN and DEKLE, JJ., Concur

cc: Hon. C. L. Dillahunty, Clerk
Hon. James F. Taylor, Clerk
Hon. Edward M. Waller, Jr.
Hon. John P. Griffin

A True Copy
TEST:
Sid J. White
Clerk Supreme Court

By /s/ Dave Lang, Jr.
Chief Deputy Clerk
Supreme Court of Florida

(I HAVE TODAY MAILED TO THE CLERK OF THE DISTRICT COURT OF APPEAL, SECOND DISTRICT, ORDER OF APRIL 25, 1972.)

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA, IN AND FOR HILLSBOROUGH COUNTY

No. 182733

GRADY HARDISTER, DOTEN K. WARNER, LLOYD NEWCITY, JERRY M. BOWMER, ROBERT A. BOWMER, HENRY KRISTOF, FRED G. STEAD, FRED MOSGELLER, G. F. PENNINGTON, OMAR C. MILLER, CARNEY W. ADAMS, NELSON E. CLIFFORD, JAMES C. CANTRELL, LAWRENCE D. SMITH, and PETER HORVANSKY,

Plaintiffs,

vs.

GOLFLAND DEVELOPERS. INC., a Florida corporation, SUSAN MARAMON, and Other Parties unknown,

Defendants.

COMPLAINT FOR INJUNCTIVE RELIEF

(Filed November 3, 1969)

Come now the Plaintiffs Grady Hardister, et al, individually by and through their undersigned attorney, and pursuant to Rule 1.220 of the Florida Rules of Civil Procedure, on behalf of all other landowners of W. E. Hamner's Wonderland Acres, 1st, 2nd and 3rd Additions, Hillsborough County, Florida, similarly situated as Plaintiffs, and sue the Defendants, Golfland Developers, Inc., a Florida Corporation, and Susan Maramon, individually, and as representative of other parties at this time unknown to the Plaintiffs, as a class of Defendants similarly situated as the individual Defendants, Golfland Developers, Inc. and Susan Maramon, and say:

COUNT 1.

1. This is an action for injunctive relief against the Defendants individually, and as a class those parties who are similarly situated as the said Defendants, for violation of restrictive covenants recorded in Book 1807, Page 245 of the official records of Hillsborough County, Florida, attached to real property known as W. E. Hamner's Wonderland Acres, 1st Addition, of Hillsborough County, Florida, and restrictive covenants recorded in Book 1895, Page 160 of the official records of Hillsborough County, Florida, attached to real property known as W. E. Hamner's Wonderland Acres, 2nd and 3rd Additions, of Hillsborough County, Florida.

2. The Plaintiffs are owners of certain lots within the platted boundaries of the said W. E. Hamner's Wonderland Acres, 1st, 2nd, or 3rd Additions and are united by a common tie of ownership of said land, and a community of interest in the decision of the same questions of law and fact involved in this cause, and Plaintiffs and the Defendants are so numerous, and the potential legal actions involved herein are so numerous, that their prosecution would visit great inconvenience, hardship and exposure upon the Plaintiffs if they were to be prosecuted individually, that the Plaintiffs bring this cause on as a class action for all those owners of land within the said W. E. Hamner's Wonderland Acres, 1st, 2nd and 3rd Additions, who are similarly situated, and who are similarly aggrieved by the actions of the Defendants in violating certain restrictive covenants which attach to all land within the boundaries of the said W. E. Hamner's Wonderland Acres, 1st, 2nd, and 3rd Additions.

3. The Defendants are the legal owners of, or parties who have equitable interests in, certain lots within the

platted boundaries of the said W. E. Hamner's Wonderlands Acres, 1st, 2nd, and 3rd Additions, Hillsborough County, Florida.

4. On June 9, 1954 the Defendant, Golfland Developers, Inc., a Florida corporation, recorded with the Clerk of the Circuit Court in and for Hillsborough County, Florida, a Statement of Restrictions to apply to that land lying in Hillsborough County, Florida, and more particularly described as W. E. Hamner's Wonderland Acres, 1st Addition, a copy of which restrictions is attached hereto as Plaintiffs' Exhibit A.

5. On April 12, 1955, the Defendant Golfland Developers, Inc., a Florida corporation, recorded with the Clerk of the Circuit Court in and for Hillsborough County, Florida, a Statement of Restrictions to apply to that land lying in Hillsborough County, Florida and more particularly described as W. E. Hamner's Wonderland Acres, 2nd and 3rd Additions, a copy of which restrictions is attached hereto as Plaintiffs' Exhibit B.

6. Since June 9, 1954, the Defendants have placed on, or caused to be placed on, certain lots of said W. E. Hamner's Wonderland Acres, 1st, 2nd, and 3rd Additions, mobile homes or trailers, for the purpose of rental, for sale as residences, and for use as residences, in direct violation of the restrictive covenants attaching to said lots or parcels of land evidenced by Plaintiffs' Exhibits A and B.

7. To allow such violations to continue will cause irreparable injury to the Plaintiffs in the form of diminution of the value of Plaintiffs' real property, as well as irreparable damage to the Plaintiffs, not susceptible of complete pecuniary compensation, in the form of loss of use and enjoyment of Plaintiffs' real property, and that

the Plaintiffs have no adequate remedy at law for said violations.

WHEREFORE, the Plaintiffs demand (a) an injunction to restrain the Defendants, their servants, agents, employees and assigns, both known and unknown, from continuing to rent, sell, or use as residences the mobile homes or trailers presently existing on certain lots or parcels of land of W. E. Hamner's Wonderland Acres, 1st, 2nd, and 3rd Additions, Hillsborough County, Florida; and (b) an injunction to restrain the Defendants, their servants, agents, employees and assigns, both known and unknown, from the placing of any further trailers or mobile homes on any parcels of land within the boundaries of W. E. Hamner's Wonderland Acres, 1st, 2nd, and 3rd Additions, except those mobile homes and trailers meeting the requirements of the restrictive covenants evidenced by Plaintiffs' Exhibits A and B; and (c) removal, within eighteen (18) months of the issuance of an injunction by this court, of all mobile homes or trailers presently on any lots or parcels of land within the boundaries of W. E. Hamner's Wonderland Acres, 1st, 2nd, and 3rd Additions, Hillsborough County, Florida.

COUNT 2.

For a second count against the Defendants, the Plaintiffs say:

8. Plaintiffs repeat the allegations contained in Paragraphs 1 through 6, with the same effect as if herein set forth.

9. Prior to the institution of this injunctive suit, and at the present time, the Defendant, Golfland Developers, Inc., a Florida corporation, has sold and is presently selling certain lands within the boundaries of W. E. Hammer's

Wonderland Acres, 1st, 2nd, and 3rd Additions, Hillsborough County, Florida, on Contracts for Deeds or other legal instruments, whereby through said legal instruments legal title to said land is retained by the said Golfland Developers, Inc. while equitable title resides in the purchasers of said land. That Golfland Developers, Inc. sells the land with full knowledge that said land is to be used for establishment of permanent or temporary mobile homes or trailer homes for use as rental units or residences in violation of restrictions against such usage as evidenced by Plaintiffs' Exhibits A and B. That as legal title holder of said lands, Golfland Developers, Inc. can prevent the placing of mobile homes or trailers on said parcels of land, but that Golfland Developers, Inc. has allowed the equitable title holders of said lands to place mobile homes or trailers thereon in violation of the said restrictions, all to the detriment of the value, use and enjoyment of the lands owned by the Plaintiffs, and others being similarly located in W. E. Hamner's Wonderland Acres, 1st, 2nd, and 3rd Additions. That unless restrained from allowing such violation of the said restrictions, Golfland Developers, Inc. will continue to allow the equitable title holders to violate the aforesaid restrictions. That unless an injunction is issued against the Defendants, Golfland Developers, Inc., the Plaintiffs will suffer irreparable damage in the form of diminution of the value of their real property as well as the diminution of the use and enjoyment of said real property.

WHEREFORE the Plaintiffs demand a mandatory injunction requiring the Defendant, Golfland Developers, Inc., to prevent any mobile homes or trailers from being placed on any lands within the boundaries of W. E. Hamner's Wonderland Acres, 1st, 2nd, and 3rd Additions, upon which the said Golfland Developers, Inc. retain legal title or over which Golfland Developers, Inc. exercise control.

COUNT 3.

For a third count against the Defendants, the Plaintiffs say:

10. Plaintiffs repeat the allegations contained in Paragraphs 1 through 6 with the same effect as if herein set forth.

11. That other parties, known and unknown to the Plaintiffs, being of the class of Defendants herein, contemplate the placing of trailers or mobile homes on land within the boundary of W. E. Hamner's Wonderland Acres, 1st, 2nd, and 3rd Additions, Hillsborough County, Florida, in violation of the aforesaid restrictive covenants, and the Plaintiffs are in apprehension of immediate injury in the form of diminution of property values and diminution of use and enjoyment of their real property, if said mobile homes or trailers are allowed to be placed on said lands; and the apprehension of said injury will be continuing unless restrained by the court in accordance with the restrictions enumerated in Plaintiffs' Exhibits A and B.

WHEREFORE, Plaintiffs demand an injunction to restrain the named and unnamed Defendants, other defendants known or unknown to the Plaintiffs, and any other party having legal or equitable interest in lands within the boundaries of W. E. Hamner's Wonderland Acres, 1st, 2nd, and 3rd Additions, Hillsborough County, Florida, from the placing of any trailer or mobile home on lands within the boundaries of said subdivision until January 1, 1975, all according to the recorded restrictions on said lands evidenced by Plaintiffs' Exhibits A and B.

/s/ John P. Griffin
John P. Griffin, Esquire
Suite 802, IBM Building
100 West Kennedy Blvd.
Tampa, Florida
Attorney for Plaintiffs

STATE OF FLORIDA :
COUNTY OF HILLSBOROUGH :

BEFORE ME, the undersigned authority, personally appeared JOHN P. GRIFFIN, who after being first duly sworn, deposes and says that he has read the foregoing COMPLAINT FOR INJUNCTIVE RELIEF and that the statements contained therein are true and correct to the best of his knowledge.

/s/ John P. Griffin
John P. Griffin

Sworn to and subscribed before me this 3rd day of November, 1969.

/s/ Peggy H. Bowman
Notary Public
State of Florida at Large

My Commission Expires: May 22, 1970.

Exhibit A

May 24, 1954
Tampa, Florida

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

KNOW ALL MEN BY THESE PRESENTS: That whereas the undersigned are the owners of the following property located in Hillsborough County, Florida, TO WIT: All of W. E. HAMNER'S WONDERLAND ACRES, as same as recorded in Plat Book 31, Page 82 of the Public Records of Hillsborough County, Florida, and all of W. E. HAMNER'S WONDERLAND ACRES, 1st ADDITION, same as recorded in Plat Book 31, Page 83, of the Public Records of Hillsborough County, Florida.

THEREFORE, THESE PRESENTS WITNESSETH: That the parties of this agreement, for and in consideration of the mutual covenants herein contained, and the further consideration of One Dollar in hand paid by each party to the other, receipt whereof is hereby acknowledged, and for other good and valuable considerations, do herein and hereby covenant and agree one with the other, for ourselves, our heirs, successors, assigns, and legal representatives, that as to said property above described, the following restrictions are hereby placed upon our respective holdings as come within the boundaries above described:

These restrictions shall run until January 1, 1975.

No dwelling shall be permitted on any tract unless the ground floor area of the main structure contains not less than 600 square feet.

The outside of any building erected on any tract must be painted within four weeks after the roof has been completed.

No trailer shall be allowed permanently on any tract. However, it is permissible for a trailer to be used while building a dwelling provided that in no instance shall the time exceed eighteen months.

No noxious or offensive trade or activity shall be carried on upon any lot nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.

If the parties hereto, or any of them, or their heirs or assigns, shall violate or attempt to violate any of the Covenants herein, it shall be lawful for any other person or persons owning any real property situated in said development or subdivision to prosecute any proceedings at law or in equity against the person or persons violating or

attempting to violate any such Covenants and either to prevent him or them from so doing or to recover damages or other dues for such violation.

Invalidation of any one of these Covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, the said party of the first part has caused these presents to be signed in its name by its president, and its corporate seal to be affixed, attested by its SECRETARY the day and year above written.

(CORPORATE SEAL).

Attest

/s/ W. E. Hamner
Secretary

Golfland Developers, Inc.

/s/ J. B. Hamner Miller
President

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

I HEREBY CERTIFY, That on this 24th day of May A.D., 1954 before me personally appeared J. B. Hamner Miller and W. E. Hamner, respectively President and Secretary of GOLFLAND DEVELOPERS, INC., a corporation under the laws of the State of Florida, to me known to be the persons described in and who executed the foregoing instrument and severally acknowledged the execution thereof to be their free act and deed as such officers, for the uses and purposes therein mentioned; and that they affixed thereto the official seal of said corporation, and the said instrument is the act and deed of said corporation.

WITNESS my signature and official seal at Tampa in the County of Hillsborough and State of Florida the day and year last aforesaid.

/s/ (Illegible) (Seal)

(Seal) Notary Public, State of Florida at large

My commission expires February 20, 1958.

Bonded by Mass. Bonding & Insurance Co.

Tampa, Florida
August 11, 1955

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

KNOW ALL MEN BY THESE PRESENTS: That whereas the undersigned are the owners of the following property located in Hillsborough County, Florida, TO WIT: All of W. E. HAMNER'S WONDERLAND ACRES, 2nd ADDITION, as same as recorded in Plat Book 32, Page 53 of the Public Records of Hillsborough County, Florida, and all of W. E. HAMNER'S WONDERLAND ACRES, 3rd ADDITION, same as recorded in Plat Book 32, Page 65, of the Public Records of Hillsborough County, Florida.

THEREFORE, THESE PRESENTS WITNESSETH: That the parties of this agreement, for and in consideration of the mutual covenants herein contained, and the further consideration of ONE DOLLAR in hand paid by each party to the other, receipt whereof is hereby acknowledged, and for other good and valuable considerations, do herein and hereby covenant and agree one with the other, for ourselves, our heirs, successors, assigns, and legal representatives, that as to said property above described, the

following restrictions are hereby placed upon our respective holdings as come within the boundaries above described:

These restrictions shall run until January 1, 1975.

No dwelling shall be permitted on any tract unless the ground floor area of the main structure contains not less than 600 square feet.

The outside of any building erected on any tract must be painted within four weeks after the roof has been completed.

No trailer shall be allowed permanently on any tract. However, it is permissible for a trailer to be used while building a dwelling provided that in no instance shall the time exceed eighteen months.

No noxious or offensive trade or activity shall be carried on upon any lot nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.

If the parties hereto, or any of them, or their heirs or assigns, shall violate or attempt to violate any of the Covenants herein, it shall be lawful for any other person or persons owning any real property situated in said development or subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such Covenants and either to prevent him or them from so doing or to recover damages or other dues for such violation.

Invalidation of any one of these Covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, the said party of the first part has caused these presents to be signed in its name by

its president, and its corporate seal to be affixed, attested by its SECRETARY the day and year above written.

(CORPORATE SEAL).

Attest

/s/ W. E. Hamner
Secretary

Golfland Developers, Inc.

/s/ J. B. Hamner Miller
President

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

I HEREBY CERTIFY, THAT on this 11th day of Auguust A.D., 1955 before me personally appeared J. B. HAMNER MILLER and W. E. HAMNER, respectively President and Secretary of GOLFLAND DEVELOPERS, INC., a corporation under the laws of the State of Florida, to me known to be the persons described in and who executed the foregoing instrument and severally acknowledged the execution thereof to be their free act and deed as such officers, for the uses and purposes therein mentioned; and that they affixed thereto the official seal of said corporation, and the said instrument is the act and deed of said corporation.

WITNESS my signature and official seal at Tampa in the County of Hillsborough and State of Florida the day and year last aforesaid.

/s/ (Illegible) (Seal)

(Seal) Notary Public, State of Florida at large

My commission expires February 20, 1958.

Bonded by Mass. Bonding & Insurance Co.